

Fair Political Practices Commission

MEMORANDUM

To: Chairman Schnur, Commissioners Garrett, Hodson, Montgomery, and Rotunda

From: Brian G. Lau, Commission Counsel
Scott Hallabrin, General Counsel

Subject: CalSTRS and CalPERS Elections

Date: January 31, 2011

Proposed Commission Action and Staff Recommendation:

- Repeal Regulations 18451, 18452, and 18453 to delete existing rules specific to CalPERS¹ elections that have been superseded by Senate Bill 1007 (Hancock).
- Adopt Regulation 18451 to clarify electronic reporting requirements related to both CalSTRS² and CalPERS elections.

Reasons for Proposal:

Effective January 1, 2011, SB 1007 imposes the full scope of the Act's campaign reporting provisions on both CalSTRS and CalPERS candidates, as well as committees primarily formed to support or oppose these candidates.

For comparison, campaign activity in CalSTRS elections is not currently subject to the Act's campaign reporting requirements because elected membership on the CalSTRS Board is not included in the Act's existing definition of "elective office" or "elective state office." (Sections 82023 and 82024.) Moreover, despite the fact that elected membership on the CalPERS Board is included in the Act's existing definition of "elective office" and "elective state office," current Section 84225 provides less stringent reporting requirements for CalPERS candidates excluding these candidates from the full requirements of Chapter 4, Article 2, of the Act (Sections 84200-84225).³

Discussion and Summary of Proposed Actions:

Repeal Regulations 18451, 18452, and 18453 – Existing Regulations 18451, 18452, and 18453 interpret the abbreviated reporting requirements applicable to CalPERS elections under

¹ The California Public Employees' Retirement System.

² The California State Teachers' Retirement System.

³ The abbreviated reporting rules for CalPERS candidates in current Section 84225 have also been applied to committees primarily formed to support or oppose CalPERS candidates. (*Fishburn* Advice Letter, No. I-02-196.)

current Section 84225. However, SB 1007 merges CalPERS elections into existing reporting requirements for other elective state offices and eliminates the abbreviated CalPERS specific provisions. Therefore, current Regulations 18451, 18452, and 18453 are generally inconsistent with SB 1007, and those specific provisions that are otherwise consistent are duplicative of the existing statutory and regulatory framework.

Adopt Regulation 18451 – New Section 84215(e) provides the filing location for reporting campaign activity in CalPERS and CalSTRS elections. Specifically, new Section 84215(e) requires CalSTRS and CalPERS candidates, as well as committees primarily formed to support or oppose these candidates, to file an original and one copy of any required campaign report or statement with the Secretary of State and a copy with the relevant CalPERS or CalSTRS office in Sacramento. New Section 84215(e) also excludes CalPERS and CalSTRS candidates from the requirement to file in their county of domicile.

In addition to the filing locations specified in new Section 84215(e), Section 84605⁴ requires online or electronic reporting for state elections at specified monetary thresholds. Because Section 84605 applies to candidates and committees required to file “statements, reports, or other documents in connection with a state elective office,” Section 84605 already imposes online or electronic filing in CalPERS elections and will be extended, upon the effective date of SB 1007, to CalSTRS elections.

Nonetheless, new Section 84215(e) does not cross-reference the online or electronic reporting requirements of Section 84605. This omission is troublesome only because Section 84215(a), which specifies the filing location for other state elective offices, expressly references the online or electronic reporting requirements of Section 84605. Therefore, candidates and committees in CalPERS and CalSTRS elections relying on Section 84215 to determine their filing locations can easily overlook Section 84605, mistakenly believing that it applies only to those state elective offices specified in 84215(a).

Proposed Regulation 18451 clarifies that persons reporting campaign activity in CalPERS and CalSTRS elections are required to file campaign statements and reports online or electronically pursuant to Section 84605 if their activity meets the thresholds specified.

Attachments:

- 1 – Proposed Repeal of Regulation 18451 4 – Proposed Adoption of Regulation 18451**
- 2 – Proposed Repeal of Regulation 18452 5 – Senate Bill 1007 (Hancock)**
- 3 – Proposed Repeal of Regulation 18453**

⁴ Assembly Bill 1181(Huber), also effective January 1, 2011, amends current Section 84605 by adding superior court judges to electronic filing requirements and lowering the monetary thresholds triggering electronic filing from \$50,000 to \$25,000 for most filers and from \$5,000 to \$2,500 for lobbyist, lobbyist firms, lobbyist employers, and other persons required to file lobbyist statements or reports.